

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OSCAR E ERICKSON, INC,

No C 07-1859 VRW

Plaintiff,

ORDER

v

NORTHWESTERN NATIONAL INSURANCE
COMPANY OF MILWAUKEE, WISCONSIN;
PACIFIC EMPLOYERS INSURANCE
COMPANY; ACE AMERICAN INSURANCE
COMPANY; THE INSURANCE COMPANY OF
THE STATE OF PENNSYLVANIA; AIG
DOMESTIC CLAIMS, INC; THE UNITED
STATES FIDELITY AND GUARANTY
COMPANY; METLIFE INSURANCE
COMPANY OF CONNECTICUT, fka THE
TRAVELERS INSURANCE COMPANY;
GRANITE STATE INSURANCE COMPANY;
AND DOES 1-50,

Defendants.

_____ /

Plaintiff Oscar E Erickson (Erickson) brought this action
against eight insurance companies, asserting that each carrier
failed to indemnify Erickson in response to multiple suits alleging
personal injuries from asbestos exposure. Erickson originally
filed his complaint in California state court. Defendant

1 Northwestern National Insurance Company (NNIC) removed the case,
2 thereby triggering the discovery stay of FRCP 26. Doc #1.
3 Immediately thereafter, NNIC and defendant AIG Domestic Claims, Inc
4 (AIG) filed motions to dismiss and motions for summary judgment as
5 their initial responsive pleadings. Doc ##11, 13.

6 Erickson requested leave of court to file a motion to
7 conduct early discovery pursuant to FRCP 26(d) and FRCP 56(f),
8 representing that such discovery was necessary to oppose the
9 pending motions. Doc #58. The court granted Erickson's request.
10 Doc #69.

11 Erickson filed his motion to conduct early discovery on
12 June 21, 2007. Doc #73. Therein, Erickson reminds the court that
13 he filed a motion to remand on May 3, 2007. Doc #43. The motion
14 to remand was taken off calendar when the court vacated the motions
15 to dismiss and was never fully briefed.

16 In his motion to remand, Erickson argues that the case
17 was improperly removed because only seven of the eight defendants
18 consented to removal. Doc #43. According to Erickson, such
19 removal is defective because it violates the "rule of unanimity,"
20 which requires that all defendants who may properly join in the
21 removal notice must join. See, e g, Hewitt v City of Stanton, 798
22 F2d 1230, 1232 (9th Cir 1986).

23 Given the suggestion that jurisdiction may be lacking,
24 the court will proceed to the merits of the motion to remand before
25 resolving the discovery dispute. Accordingly, defendants are
26 ORDERED to file a joint opposition to Erickson's motion to remand
27 on or before October 11, 2007. Erickson may file a reply on or
28 before October 25, 2007. After all the papers have been received,

1 the matter will be deemed submitted without oral argument. See
2 Civil LR 7-1(b).

3 Docket numbers 11, 13, 34, 38, 39, 50, 51, 57, 63, and 73
4 are STAYED pending resolution of the motion to remand.

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9 IT IS SO ORDERED.

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12 VAUGHN R WALKER

13 United States District Chief Judge
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